

**Brookline Board of Appeals
October 27, 2016, 7:00 PM
Public Hearing
333 Washington Street
Room 111, 1st floor Town Hall**

Board Members Present – Johanna Schneider (Chair), Mark Zuroff, Jonathan Book

Staff Present – Mike Yanovitch (Building Dept.) Ashley Clark (Planning Dept.)

161 Buckminster Road 2016-0070

Proposal: Construct a 200 square foot addition

Board Vote: Relief request **granted**, subject to conditions

66 Risley Road 2016-0062

Proposal: Install a backup generator requiring side yard setback relief

Board Vote: Relief request **granted**, subject to conditions

42 Brington Road/Brington Road Lot 8 2016-0020, 2016-0021

Proposal: Construct new single family dwelling on adjacent lot

Board Vote: Relief request **granted**, subject to conditions

1471 Beacon Street 2016-0058

Proposal: Construct a two car parking area at the rear

Board Vote: Relief request **granted**, subject to conditions

161 Buckminster Road 2016-0070

Proposal: Construct a 200 square foot addition

Board Vote: Relief request **granted**, subject to conditions

Board Chair Schneider opened the case and reviewed standard hearing procedure.

Barbara Kellman, owner and applicant, waived a reading of the notice. Ms. Kellman presented the application to construct a total of 200 square feet in additions. Ms. Kellman stated they are seeking a special permit under **Section 5.22.3.b.1.b** to construct a 200 square foot addition that takes the FAR from 111% to 117% which is within the permitted range. Ms. Kellman stated the Planning Board thought the design was good and had no objections. Ms. Kellman stated they have spoken with their closest neighbor, who has no objection to the proposal.

Board Chair Schneider confirmed the additions will be where there are currently open decks. Ms. Kellman stated the building footprint and setbacks will not be altered with this proposal.

Board Chair Schneider called for public comment in favor of, in opposition to, or in general to the Petitioner's proposal. There was no public comment.

Board Chair Schneider called upon Zoning Coordinator Ashley Clark from the Planning Department to review the findings of the Planning Board.

Ms. Clark stated the Planning Board is supportive of the proposed addition for this single-family dwelling. Ms. Clark stated the addition is in proportion with the home and will add livable space for the owners. Ms. Clark noted similar (as well as much larger and imposing) additions have been added to homes of similar style across the street and nearby and the addition will not be out of character and will increase the functionality of the home.

Therefore, the Planning Board recommends approval of the site plan, architectural plans and elevations by Howland Architecture Studio, reviewed by the Planning Board on dated 10/20/2016, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final site plans, floor plans and elevation subject to the review and approval of the Assistant Director of Regulatory Planning and subject to discussion with Preservation upon their request.
2. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) final floor plans and elevations stamped and signed by a registered architect or engineer; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Board Chair Schneider requested that Deputy Building Commissioner Michael Yanovitch review the findings of the Building Department. Mr. Yanovitch stated the Building Department has no objection to this request. Mr. Yanovitch stated in his opinion, the relief requested is minor in nature. Mr. Yanovitch stated that should the Board grant relief, the Building Department will work with the application to ensure compliance.

The Board then deliberated on the merits of a special permit relief requested. Mr. Zuroff was in support of the proposal as it would have a minimum impact on the neighborhood and meets the requirements of granting a special permit. Mr. Book concurred with Mr. Zuroff and stated the application meets the requirements under Sections 9.05 and 5.22.3.b.1.b. Board Chair Schneider agreed with Mr. Zuroff and Mr. Book in that it is a modest request for relief and will not have a detrimental impact on the neighbors or surrounding properties.

Accordingly, the Board voted unanimously to grant the requested special permit relief under §5.22.3.b.1.b of the Zoning By-Law, subject to the following conditions:

1. Prior to the issuance of a building permit, a final signage site plan shall be subject to the review and approval of the Assistant Director for Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) signage site plans stamped and signed by a registered architect; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

66 Risley Road 2016-0062

Proposal: Install a backup generator requiring side yard setback relief

Board Vote: Relief request **granted**, subject to conditions

Board Chair Schneider opened the case and reviewed standard hearing procedure.

Mr. Kessler presented the application to install a backup generator at 66 Risley Road. Mr. Kessler stated he is seeking special permit relief for the side yard setback between his house and neighbors. Mr. Kessler stated there is a new wooden fence that shields the generator from the neighbors and described work they have done to the house to maintain and improve it.

Board Chair Schneider called for public comment in favor of, in opposition to, or in general to the Petitioner's proposal. There was no public comment.

Board Chair Schneider called upon Zoning Coordinator Ashley Clark from the Planning Department to review the findings of the Planning Board.

Ms. Clark stated the Planning Board is supportive of this proposal to install a backup generator; many homes in Brookline have recently installed similar generators due to issues of frequent power loss. Ms. Clark stated that although most generators have been installed in rear yards, the Planning Board does not oppose this side yard location due to the existing screening. Ms. Clark noted, a condition has been added to ensure that the generator does not violate noise regulations.

Therefore, the Planning Board recommends approval of the site plan by Frank Iebba, dated 8/14/16, subject to the following conditions:

1. The decibel level of the proposed generator shall comply with all noise regulations under Section 8.15 of the Brookline General By-Laws.

2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities subject to the review and approval of the Assistant Director of Regulatory Planning.
3. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Board Chair Schneider requested that Deputy Building Commissioner Michael Yanovitch review the findings of the Building Department. Mr. Yanovitch stated the Building Department has no objection to this request. Mr. Yanovitch stated in his opinion, the relief requested is minor in nature. Mr. Yanovitch stated the noise decibel level is exempt while it is running under emergency conditions, but does have to comply when it is exercising. Mr. Yanovitch stated that the proposed model is compliant with the noise regulations in Brookline. Mr. Yanovitch concluded stating, should the Board find the proposal meets the requirements for a special permit, the Building Department will work with the application to ensure compliance.

Mr. Kessler stated he and the direct neighbor have agreed upon Wednesday at noon for testing of the generator. Mr. Kessler stated this time will have the least impact for both parties. Additionally, Mr. Kessler stated that he has offered shelter for when there are power outages.

The Board then deliberated on the merits of a special permit relief requested. The Board felt the special permit relief was warranted as long as a counter balancing amenity was provided. After considerable discussion regarding the already existing screening, Mr. Kessler agreed to submit a landscaping plan indicating new plantings to satisfy the requirements under **§5.43**. Board Members Zuroff and Book as well as Board Chair Schneider were in support of granting the relief. Accordingly, the Board voted unanimously to grant the requested special permit relief under **§5.43** of the Zoning By-Law, subject to the following amended conditions:

1. The decibel level of the proposed generator shall comply with all noise regulations under **Section 8.15** of the Brookline General By-Laws.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating new plantings subject to the review and approval of the Assistant Director of Regulatory Planning.
3. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

42 Brington Road/Brington Road Lot 8 2016-0020, 2016-0021

Proposal: Construct new single family dwelling on adjacent lot

Board Vote: Relief request **granted**, subject to conditions

Board Chair Schneider opened the case and reviewed standard hearing procedure.

Attorney Robert Allen waived a reading of the public notice. Mr. Allen stated there are two cases to hear and requested to withdraw case 2016-0020, for 42 Brington Road as it is no longer being cited by the Building Department.

Mr. Yanovitch stated there was a previously rendered opinion from the Building Department stating that the now defined the rear yard was a side yard.

Mr. Allen presented the case for lot 8 Brington Road and described the process with the Building Department, and neighbors.

Ms. Hart, the architect for the proposal, presented the design. Ms. Hart reviewed the FAR calculations and new setbacks. Ms. Hart stated if all the unfinished spaced were finished, the home would be at an FAR of .36. Ms. Hart state they have met every dimensional requirement except for the setbacks.

Katya Podsiadlo, the landscape architect, presented the landscaping plan for the property. Ms. Podsiadlo described the new plantings and screening along the property line.

Mr. Allen reviewed the proposal in regards to Section 9.05 of the Town's Zoning By-law.

Ms. Schneider asked for public comment in support of the proposal.

Virginia Laplante, 58 Welland Road, was in support.

A resident, 35 Gardener Road, was in support.

Jerry Davidson, 49 Cypress Street, was in support.

Ann Berman, 76 Perry Street, was in support.

Ms. Schneider asked for public comment in opposition.

An attorney spoke in opposition for Matt and Zamira Oudens.

Valerie Morhaime, 21 Brington Road, was in opposition.

John Demsey, 43 Brington Road, was in opposition.

Cami Brothers, 42 Brington Road, was in opposition

Janet Sanders, 64 Brington Road, was in opposition.

Ms. Schneider called upon Ashley Clark from the Planning Department to deliver the comments of the Planning Board.

Ms. Clark stated The Planning Board is opposed to the construction of a new single-family dwelling at Brington Road lot 08. Although revised plans were presented to the Planning Board that took into account comments made at the original presentation of this project, the Board feels that the proposed structure is too large for the lot and the relief requested is too extreme. Significant concerns were also

raised about the architectural changes made to the home as well as the parking area size. Numerous abutters spoke out at the meeting against the project and articulated the negative impact it would have on the neighborhood. Neighbors felt the lot was unbuildable and do not believe their concerns were sufficiently incorporated into the applicant's proposal.

Therefore, the Planning Board recommends denial of the site plan by George C. Collins, dated 4/20/16, floor plans and elevations by Hart Associates Inc., dated 6/29/16, and the landscape plan by Blair Hines Design, dated 4/3/16.

Ms. Schneider called upon Mike Yanovitch to deliver the Building Department opinion.

Mr. Yanovitch described buildable lots as being defined as a 5,000 square foot lot according to the state. Mr. Yanovitch stated he has spoken with the new resident explaining the parking requirements. Mr. Yanovitch also described the zoning relief and their decision as a department to follow the most stringent requirement for interpretation. Mr. Yanovitch stated if the Board finds the proposal meets the requirements for special permit, the Building Department will work with the Petitioner to ensure compliance.

Board Deliberation

After the Board discussed the proposal and the merits of special permit, there was a unanimous vote in support subject to conditions as read into the record.

1471 Beacon Street 2016-0058

Proposal: Construct a two car parking area at the rear

Board Vote: Relief request **granted**, subject to conditions

Mr. Allen waived a reading of the notice and introduced the proposal at 1471 Beacon. Mr. Allen described a previous proposal that was approved which included a variance for parking. Mr. Allen stated this proposal for two parking spaces also needs a variance.

Mr. Allen stated the parking spaces will stay with the condo building.

Mr. Zuroff stated it is odd that a variance is needed for doing less than what the variance previously granted.

Mr. Book stated there is a topography issue that does not generally affect the zoning district. Ms. Schneider stated they made a hardship argument through a marketability issue.

Board Chair Schneider called for public comment in favor of, in opposition to, or in general to the Petitioner's proposal. There was no public comment.

Ms. Clark stated the Planning Board is in support of this proposed two-car parking area. Ms. Clark noted previous proposals for parking amenities on this property have included much larger proposals including enclosed garages. This proposal is the least impactful of the recent proposals. The proposed landscape will also improve the hillside at the rear of the building and improve the appearance for abutting properties at the rear on Beacon and Griggs Terrace.

Therefore, the Planning Board recommends approval of the site parking plans by J.F Hennessy Co. dated 6/27/16, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations, subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscape plan, stamped and signed by a registered landscape architect, indicating substantial counterbalancing amenities, subject to the review and approval of the Assistant Director of Regulatory Planning.
3. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) final elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Mr. Yanovitch stated the plans will be signed off by a Massachusetts registered design professional.

Mr. Yanovitch stated the Building Department has no objection to the proposal. Mr. Yanovitch stated should the Board finds this proposal meets the criteria for the grant of the relief, the Building Department will work with the Petitioner to ensure compliance.

The Board then deliberated on the merits of zoning relief. Mr. Zuroff, Mr. Book and Board Chair Schneider were in favor of granting the requested relief, subject to the conditions as read into the record.